

## Internal Revenue Service

Number: **201516051**

Release Date: 4/17/2015

Index Number: 54A.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

,

Telephone Number:

Refer Reply To:

CC:FIP:B05

PLR-134584-14

Date:

December 18, 2014

### LEGEND:

Authority =

State =

Bonds =

Date 1 =

Date 2 =

Date 3 =

x =

y =

Dear :

This is in response to your request under section 54A(d)(2)(B)(iii) of the Internal Revenue Code (the Code) for an extension of the expenditure period for the available project proceeds of qualified zone academy bonds.

### **Facts and Representations**

Authority is a body corporate and politic constituting an instrumentality of State. The primary functions of Authority are to design and construct office buildings, quarters, courts, warehouses, shops, schools, health facilities, social welfare facilities, and related facilities for lease to State or any of its departments, agencies, instrumentalities, or municipalities. Authority is empowered to issue bonds for any of its corporate purposes.

Authority issued the Bonds on Date 1 and designated the Bonds as qualified zone academy bonds within the meaning of section 54E(a). All available project proceeds of the Bonds were to be spent on rehabilitating and repairing approximately x public schools throughout State (the "Project"). All available project proceeds of the Bonds were expected to be spent not later than Date 2.

The original three-year expenditure period for the Bonds under section 54A(d)(2)(B)(i) will expire on Date 2 (the "Original Expenditure Period"). However, several unexpected events have resulted in an unforeseen delay in the expenditure of the available project proceeds of the Bonds.

Due to unforeseen circumstances at y of the approximately x public school facilities, Authority does not expect to complete the rehabilitation efforts before the expiration of the Original Expenditure Period. These unforeseen circumstances include major contract disputes with contractors, delays in the governmental permitting process, certain schools being redesignated by State as historic buildings, and altered development plans resulting from unexpected and significant population migration.

Authority represents that all of the available project proceeds of the Bonds will be spent on the Project by Date 3, which is approximately 10 months after the Original Expenditure Period expires.

Authority submitted this request for a ruling prior to the expiration of the Original Expenditure Period.

### **Law and Analysis**

Section 54A(d)(1) provides that a qualified zone academy bond is treated as a qualified tax credit bond for purposes of Section 54A.

Section 54A(d)(2)(B)(i) provides in part that to the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period.

Section 54A(d)(2)(B)(ii) provides that for purposes of this subpart, the term "expenditure period" means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

Section 54A(d)(2)(B)(iii) provides that upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

Section 54A(d)(2)(C)(iv) provides that for purposes of this paragraph, in the case of a qualified zone academy bond, a “qualified purpose” means a purpose specified in § 54E(a)(1).

Section 54A(e)(4) of the Code defines “available project proceeds” to mean (A) the excess of (i) the proceeds from the sale of an issue, over (ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and (B) the proceeds from any investment of the excess described in subparagraph (A).

At the time the Bonds were issued, Authority reasonably expected to spend all available project proceeds within the Original Expenditure Period. The expected failure to spend all available project proceeds of the Bonds by the expiration of the Original Expenditure Period was due to reasonable cause. The expected failure was caused by events that were not reasonably expected at the time the Bonds were issued and were beyond the control of Authority. These events caused a significant delay in committing and spending the Bond proceeds.

Authority will continue to spend the remaining available project proceeds on the Project with due diligence. Authority expects to spend all available project proceeds not later than Date 3, which is approximately 10 months after the Original Expenditure Period expires.

### **Conclusion**

Under the facts and circumstances of this case, we conclude that Authority’s expected failure to expend the available project proceeds of the Bonds by Date 2 is due to reasonable cause and that Authority’s continued expenditure of the proceeds for qualified purposes will proceed with due diligence. Therefore, Authority is granted an extension of the Original Expenditure Period with respect to the Bonds until Date 3.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a Power of Attorney on file with this office, a copy of this letter is being sent to Authority's authorized representative.

The ruling contained in this letter is based upon information and representations submitted by Authority and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted in support of the request for a ruling, it is subject to verification upon examination.

Sincerely,

Associate Chief Counsel  
(Financial Institutions & Products)

/S/

By: \_\_\_\_\_  
James Polfer  
Chief, Branch 5